

§ 96.73 [Reserved]

Subpart K—Adverse Action by the Accrediting Entity

§ 96.74 Scope.

The provisions in this subpart establish the procedures governing adverse action by an accrediting entity against accredited agencies and approved persons.

[71 FR 8131, Feb. 15, 2006, as amended at 79 FR 40636, July 14, 2014]

§ 96.75 Adverse action against accredited agencies or approved persons not in substantial compliance.

The accrediting entity must take adverse action when it determines that an accredited agency or approved person may not maintain accreditation or approval as provided in § 96.27. The accrediting entity is authorized to take any of the following actions against an accredited agency or approved person whose compliance the entity oversees. Each of these actions by an accrediting entity is considered an adverse action for purposes of the IAA, the UAA, and the regulations in this part:

- (a) Suspending accreditation or approval;
- (b) Canceling accreditation or approval;
- (c) Refusing to renew accreditation or approval;
- (d) Requiring an accredited agency or approved person to take a specific corrective action to bring itself into compliance; and
- (e) Imposing other sanctions including, but not limited to, requiring an accredited agency or approved person to cease providing adoption services in a particular case or in a specific foreign country.

[71 FR 8131, Feb. 15, 2006, as amended at 79 FR 40636, July 14, 2014]

§ 96.76 Procedures governing adverse action by the accrediting entity.

(a) The accrediting entity must decide which adverse action to take based on the seriousness and type of violation and on the extent to which the accredited agency or approved person has corrected or failed to correct deficiencies of which it has been previously

informed. The accrediting entity must notify an accredited agency or approved person in writing of its decision to take an adverse action against the agency or person. The accrediting entity's written notice must identify the deficiencies prompting imposition of the adverse action.

(b) Before taking adverse action, the accrediting entity may, in its discretion, advise an accredited agency or approved person in writing of any deficiencies in its performance that may warrant an adverse action and provide it with an opportunity to demonstrate that an adverse action would be unwarranted before the adverse action is imposed. If the accrediting entity takes the adverse action without such prior notice, it must provide a similar opportunity to demonstrate that the adverse action was unwarranted after the adverse action is imposed, and may withdraw the adverse action based on the information provided.

(c) The provisions in §§ 96.25 and 96.26 govern requests for and use of information.

§ 96.77 Responsibilities of the accredited agency, approved person, and accrediting entity following adverse action by the accrediting entity.

(a) If the accrediting entity takes an adverse action against an agency or person, the action will take effect immediately unless the accrediting entity agrees to a later effective date.

(b) If the accrediting entity suspends or cancels the accreditation or approval of an agency or person, the agency or person must immediately, or by any later effective date set by the accrediting entity, cease to provide adoption services in all intercountry adoption cases. In the case of suspension, it must consult with the accrediting entity about whether to transfer its intercountry adoption cases and adoption records. In the case of cancellation, it must execute the plans required by §§ 96.33(e) and 96.42(d) under the oversight of the accrediting entity, and transfer its intercountry adoption cases and adoption records to other accredited agencies, approved persons, or a State archive, as appropriate. When the agency or person is unable to transfer such intercountry adoption